

**IN UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

JUDY MASON,)
)
Plaintiff,)
)
vs.) **Case No. CV-2019-257-MMH**
)
CVS HEALTH CORPORATION,)
)
Defendants.)

UNOPPOSED MOTION TO SUBSTITUTE PARTY DEFENDANT

COMES NOW, CVS HEALTH CORPORATION (Movant), and moves this Honorable Court for entry of an Order allowing the substitution of Alabama CVS Pharmacy, LLC for CVS Health Corporation, as the proper party Defendant in this matter. As grounds and support of this Motion states as follows:

A. Alabama CVS Pharmacy, LLC Owns The Subject CVS Store

1. The Complaint seeks to impose liability as a consequence of an alleged dangerous or defective condition on the premises of a CVS Pharmacy located at 8470 Highway 20, Madison, Alabama and incorrectly identifies CVS Health Corporation as the owner of the premises.

2. Alabama CVS Pharmacy, LLC owns and operates the CVS Pharmacy located in Madison, Alabama where the events of this subject lawsuit took place.

3. Since all of Plaintiff's claims are based on the alleged condition of the premises of said CVS Pharmacy located in Madison, Alabama and that entity is in fact, Alabama CVS Pharmacy, LLC, it is proper to substitute Alabama CVS Pharmacy, LLC for CVS Health Corporation as the party Defendant in this matter.

B. The Substitution Will Not Impact Diversity Jurisdiction

5. CVS Pharmacy, Inc. is the sole member of Alabama CVS Pharmacy, LLC and its principle place of business is in the State of Rhode Island. See records of the Secretary of State's office attached as Exhibit A. Pursuant to Fed. R. Evid. 201(b)(2), the Court may take judicial notice of the Alabama Secretary of State's repository of records through the Business Entity Portal on its website.

6. Alabama CVS Pharmacy, LLC is an Alabama Limited Liability Company whose sole member is CVS Pharmacy, Inc.

7. For purposes of diversity jurisdiction, "a limited liability company is a citizen of any state of which a member of the company is a citizen." *Rolling Greens MHP, LP v. Comcast SCH Holdings, LLC*, 374 F.3d 1020, 1022 (11th Cir. 2004). Since CVS Pharmacy, Inc. is its sole member, Alabama CVS Pharmacy, LLC is considered a citizen of the state of Rhode Island for purposes of determining federal diversity jurisdiction.

8. This Motion is being filed with the consent and approval of both CVS Health Corporation and Alabama CVS Pharmacy, LLC by and through their chosen undersigned counsel.

9. Counsel for Plaintiff has advised that Plaintiff does not oppose this Motion to Substitute.

WHEREFORE, the above premises considered, Defendant respectfully submits that the foregoing Motion is due to be GRANTED.

Respectfully submitted,

Defendant,
CVS HEALTH CORPORATION
By its attorney,

/s/ J. Allen Sydnor, Jr.
J. Allen Sydnor, Jr. (ASB-6517-D55J)

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing **UNOPPOSED MOTION TO SUBSTITUTE PARTY DEFENDANT** has been electronically served upon:

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on February 12, 2019

/s/ J. Allen Sydnor, Jr.
OF COUNSEL